



DNREC Division of Waste  
and Hazardous Substances  
89 Kings Highway  
Dover, Delaware 19901  
Phone: 302.739.9400  
Fax: 302.739.1894

## **Delaware Department of Natural Resources and Environmental Control**

# **LEGISLATIVE CHANGES TO DELAWARE'S STORAGE TANK ACTS PROTECTING DELAWARE'S DRINKING WATER**

**February 2012**

## **What are the proposed legislative changes to the Underground and Aboveground Storage Tank Acts?**

The Department of Natural Resources and Environmental Control (DNREC) is proposing the following legislative changes to Delaware's Underground Storage Tank (UST) Act:

1. Increasing DNREC's authority for site access to conduct state lead investigations and cleanups of releases of petroleum from leaking underground storage tanks (LUSTs).
2. Expanding DNREC's authority to require an owner to place an environmental covenant on the facility in order to receive a "No Further Action Letter" if residual contamination is left on-site. Covenants would cover activities such as contacting DNREC before installing a well or excavating on the site.
3. Amends the financial responsibility statutory language regarding the amounts UST owners and operators must maintain to pay for an environmental cleanup or 3<sup>rd</sup> party damages, to be consistent with existing federal requirements.
4. Amending a few statutory definitions to ensure consistency between DNREC cleanup programs that hold property owners responsible for cleaning up contamination.

## **How would the proposed legislative changes be implemented?**

The proposed changes will be implemented by the Department of Natural Resources and Environmental Control through 7 Delaware Code, Chapters 74, 74A, 79 and supporting regulations.

## **What's the likely impact to businesses and the public?**

There will be no change in the costs to businesses for maintaining evidence of financial responsibility as the current federal levels have not changed. Costs to businesses to implement an environmental covenant may include attorney's fees. Increasing DNREC's authority for site access and ability to place an environmental covenant on marginally contaminated property will allow owners of affected and adjacent properties to benefit with more timely and protective cleanups. Also, future buyers of the property would be informed and aware of the environmental conditions associated with the property, and possibly be eligible for the State of Delaware Brownfields Development Program.

**Please see the back of this fact sheet for more information.**

**Delaware Department of Natural Resources and  
Environmental Control**

**DNREC Office of Environmental Protection**  
**Proposed legislative changes to the Acts continued....**

**What will the proposed legislative changes to the Underground  
and Aboveground Storage Tank Acts do for Delaware?**

- The proposed legislative changes will allow the Department of Natural Resources and Environmental Control (DNREC) to more effectively conduct state lead cleanup actions at leaking underground storage tank sites when responsible parties do not have the financial resources to do the cleanups themselves, or choose not to perform the cleanups as required.
- In today's economy, more and more gas stations are going out-of-business leaving leaking underground storage tanks (LUSTs) in place. Leaking petroleum contamination threatens our State's drinking water supplies, and public health and safety.

When cleaning up a contaminated property, DNREC's Tank Management Section uses a risk-based approach to making cleanup decisions. The Department's decision for "no further action" at these properties is often accompanied by conditions that prevent digging or installing a new well on the property in marginally contaminated areas. However, without a deed restriction, these properties could be sold to an unsuspecting new owner, who might not know about these restrictions.

With the proposed legislation, DNREC's Tank Management Section will have the authority to require environmental covenants be placed on the property deed, when necessary. This would make any restrictions or engineering controls enforceable and allow them to "run with the land."

**For more information on the proposed legislative changes to the  
Delaware's Underground and Aboveground Storage Tank Acts,  
please call or e-mail:**

**Marjorie A. Crofts, Director, Division of Waste and Hazardous  
Substances, at 302.739.9400 or [Marjorie.Crofts@state.de.us](mailto:Marjorie.Crofts@state.de.us)**